

Exhibit S

K&L GATES

CONFIDENTIAL

November 28, 2023

VIA EMAIL: rheuwinkel@bebtlaw.com

Ryan T. Heuwinkel
Bohyer, Erickson, Beaudette & Tranel, P.C.
P.O. Box 7729
Missoula, MT

Jeffrey J. Meagher
jeffrey.meagher@klgates.com

T +1 412 355 8359
F +1 412 355 6501

Insured: Murphy Oil Corporation

Lawsuits: *Michael E. Lockman, et al. v. Pioneer Natural Resources USA, Inc., et al.*, Case No. 4:20-cv-00067-BMM-JTJ (D. Mont. Great Falls Division)
***Zimmerman, Inc. et al. v. Murphy Exploration & Production Co., et al.*, Case No. 4:20-cv-00068-BMM-JTJ (D. Mont. Great Falls Division)**

Dear Mr. Heuwinkel:

We represent Murphy Oil Corporation (“Murphy Oil”) in connection with the above-referenced lawsuits (the “Montana Lawsuits”). We write in response to your October 24, 2023 letter on behalf of United States Fidelity and Guaranty Company (“USF&G”).

In your letter, you state that Murphy Oil “no longer has any liability to any party with respect to the [Montana Lawsuits] and thus the insuring agreement of the USF&G policies are no longer triggered.” With respect, that is not an accurate summary of the current situation. Murphy Oil still has potential liability to the plaintiffs in the *Zimmerman* lawsuit. While an arbitration panel has ruled that Ballard Petroleum Holdings, LLC (“Ballard”) has a contractual duty to defend and indemnify Murphy Oil in connection with the Montana Lawsuits, that does not mean that Murphy Oil no longer has any potential liability to the plaintiffs in the *Zimmerman* lawsuit or that USF&G no longer has a duty to defend Murphy Oil in connection with that lawsuit. USF&G has an independent contractual duty to defend and indemnify Murphy Oil in connection with the *Zimmerman* lawsuit, and it may not avoid that duty by pointing to Ballard. In addition, Ballard continues to pursue legal arguments to lessen or avoid its obligations in the arbitration, and it could appeal the arbitration panel’s decision after the conclusion of the arbitration.

USF&G may eventually be able to seek reimbursement from Ballard via subrogation, but it may not do so until Murphy Oil has been made whole – both as to defense costs and indemnity against liability. According to the Montana Supreme Court, “it is the public policy of Montana that an insured must be totally reimbursed for all losses as well as costs, including attorney fees, involved in recovering those losses before the insurer can exercise any right of subrogation, regardless of any contract language providing to the contrary.” *Swanson v. Hartford Ins. Co. of Midwest*, 46 P.3d 584, 589 (Mont. 2002). Murphy Oil has not been totally reimbursed for all costs incurred in connection with the Montana Lawsuits. Murphy Oil has submitted \$5,441,253.82 in defense costs to USF&G for reimbursement, but USF&G has only reimbursed Murphy Oil for \$1,963,973.12 of those costs to date. Ballard has not reimbursed Murphy Oil for any costs. In addition, Murphy Oil has not been reimbursed for the attorneys fees and costs involved in recovering its losses from Ballard. Murphy Oil has incurred approximately \$600,000 in attorneys fees and costs in connection with the Ballard arbitration and it will continue to incur additional fees and costs as the arbitration moves forward. Murphy Oil also seeks reimbursement of these fees and costs from USF&G before USF&G may move forward with a subrogation claim against Ballard.

In short, USF&G does not have a legitimate, good faith basis to unilaterally discontinue its contractual defense obligation, and it may not pursue a subrogation claim against Ballard until Murphy Oil has been made whole.

Please let us know when USF&G will resume paying Murphy Oil’s defense costs. Otherwise, Murphy Oil will need to pursue remedies for USF&G’s breach of its previously acknowledged duty to defend Murphy Oil in connection with the Montana Lawsuits.

Sincerely,

s/Jeffrey J. Meagher

cc: Leanne C. Gibson: lgibson@bebtlaw.com